

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

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| ANNUAL COMPLIANCE REVIEW | Docket No. ACR2013 |
| VALASSIS NSA | Docket No. MC2012-14 |
| VALASSIS NSA | Docket No. R2012-8 |

**COMMENTS OF THE
NEWSPAPER ASSOCIATION OF AMERICA**
(January 31, 2014)

The Newspaper Association of America (“NAA”)¹ hereby submits these comments on the Postal Service’s FY 2013 Annual Compliance Report (“ACR”).² NAA will address the ACR’s non-compliant report on the status of the Postal Service’s negotiated services agreement with Valassis.

In Order No. 1448, the Commission approved the Postal Service’s NSA with Valassis. Docket No. MC2012-14 (Aug. 23, 2012). Paragraph 2 of the ordering paragraphs directed the Postal Service to report data concerning the NSA in accordance with the data collection plan approved by that Order. *Id.* at 42. The data collection plan approved by the Commission was, with certain modifications, the plan that the Postal Service had proposed in its Request for

¹ NAA represents the interests of nearly 2,000 newspapers in the United States and Canada. Its members account for nearly 90 percent of the daily newspaper circulation in the United States and a wide range of non-daily U.S. newspapers. NAA members use all classes of mail, including First Class Mail, Periodicals mail, and Standard mail.

² *United States Postal Service FY 2013 Annual Compliance Report* (December 27, 2013) (“ACR”). The Commission gave notice in Order No. 1935, 79 *Fed. Reg.* 669 (Jan. 6, 2014).

approval of the Valassis NSA (at Attachment D thereto). The Commission directed the Postal Service to report the required data “within 60 days of the end of each contract year.” Order No. 1448 at 41.

In particular, the Postal Service is required to report, within 60 days of the end of each contract year, the following:

- Valassis’ volumes entered by qualifying price category for the preceding contract year;
- Valassis’ postage paid by qualifying price category for the preceding contract year;
- The rebate paid to and/or penalty paid by Valassis (if any) and the calculations underlying their determination;
- The volume and payment paid by Valassis (if any) for any mailings identified in violation of the terms for the migration of USPS solo mail into the package detailed in the agreement;
- The calculations used to determine the rebate prices for the 6.5 to 9 ounce and 9 to 11 ounce increments, adjusted by an amount equal to the percentage price change for Standard Mail Saturation Flats, provided that the resulting percentage rebates remain in the range of 22 percent to 34 percent;
- An estimate of the Valassis NSA’s costs for each market where the Valassis NSA is operational;
- An analysis of the impact of the Valassis NSA on TMC mailings for each market where the Valassis NSA is operational; and
- A summary of the data collected during the quarterly audits to assess diversion of volume.

Except for the last item, the Commission directed that these data be provided, if possible, for each market where the NSA is operational. *Id.* at 41.

The Commission also ordered the Postal Service to notify it within 30 days of the NSA becoming operational in a market, including identifying that market.

Id. at 42. Finally, the Commission ordered the Postal Service to notify it promptly if the NSA terminates earlier than the proposed term. *Id.*

By its terms, the NSA took effect upon approval by the Commission, which occurred on August 23, 2012. Accordingly, the sixtieth day after the first contract year was October 22, 2013. However, the Postal Service has filed no data collection report concerning the NSA filed on October 22, 2013, or on any other date.

The *ACR* contains very limited amount of information regarding the Valassis NSA. Its discussion of the Valassis NSA consists entirely of the following statement (at 38):

Valassis did not send enough NSA-eligible volume to qualify for volume discounts, and paid published rates during FY 2013. Therefore, there are no further data to report.

This brief comment also fails to set forth the information required by the data collection report mandated by Order No. 1448.

As Chairman's Information Request No. 4, Question 14, states, the Postal Service has failed to inform the Commission whether Valassis reached the 1,000,000 pieces contract threshold or pay the one-time penalty of \$100,000 for failing to do so. In this regard, NAA observes that the RPW Report shows no revenue from Standard Mail Market Dominant NSA Mail fees. See USPS-FY13-42 FY 2013 Revenue, Pieces, & Weight Report, Summaryreport_public.

In addition, however, the Postal Service has also failed to provide, in the *ACR* or anywhere else, the following data required by Order No. 1448 information regarding:

- Whether Valassis entered *any* volumes of the nature contemplated by the NSA in FY 2013. NAA notes that the ACR's report on FY 2013 NSA costs provides zero information regarding any Standard flats. See USPS-FY13-30 FY 2013 Market Dominant NSA Materials (ACR NSA_FY13_report.2013.12.19.xls). In contrast, the ACR does present data regarding the letters mailed pursuant to the Discover NSA.

Furthermore, there is *no* indication in the Standard Mail NSA billing determinants for that *any* flats were mailed. See USPS-FY13-4 FY 2013 Market Dominant Billing Determinants, Standard Mail Customized (NSA) Pricing Categories, Tab NSA Letters and Flats, p.C5-10. Identifying such volumes should be simple, because the NSA parties agreed that a dedicated permit imprint would be used on mailings under the NSA.

- Valassis' postage paid by qualifying price category for mail purportedly entered as part of the NSA, other than to say "published rates" – itself a meaningless term because the NSA rates themselves are "published."
- Whether any solo mail migrated into the NSA mailings in violation of the NSA.
- The Postal Service's estimate of its costs for each market where the Valassis NSA is operational.
- The impact of the Valassis NSA on TMC mailings for each market where the Valassis NSA is operational.
- The data collected during the quarterly audits to assess diversion of volume.

The Commission is unable to fulfill its oversight responsibilities if the Postal Service fails to provide data required by Commission orders, including Order No. 1448.

For the foregoing reasons, the Newspaper Association of America urges the Commission to require the Postal Service to comply with its data collection

and reporting obligations, and to provide fully the information required under
Order No. 1448.

Respectfully submitted,

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